REMARKS

Responsive to the restriction requirement, applicants provisionally elect Group I, directed to claims 20-29 and 36, drawn to an enzymatically-active glutamine: fructose-6-phosphate amidotransferase and composition, with traverse.

Responsive to the election of a particular polynucleotide and/or polypeptide sequence, applicants provisionally elect SEQ ID NO 8, with traverse.

The reasons for traverse follow:

The restriction requirement is improper as a matter of science and a matter of law.

The Science

The Official Action argues that proteins (SEQ ID NO 2, 4, 6, 8, 10 and 12) and nucleic acid molecules (SEQ ID NO 1, 3, 5, 7, 9 and 11) are different molecular species with different functional properties.

However, the disclosed nucleic acid sequences SEQ ID NO 1, 3, 5, 7, 9 and 11 refer to the genetic information coding for the disclosed proteins SEQ ID NO 2, 4, 6, 8, 10 and 12. Although these molecules have a completely different structure, in Biology these molecules are known to form a global concept that "contains and diffuses the biological information".

Therefore, group I and group II should be considered as a single general inventive concept.

The Official Action also considers that the process of group III and the methods of groups IV and V are not related to group II since the product of group II is not required for the process of group III and the methods of groups IV and V.

However, groups III to V refer to the protein of group I, and, for the reasons discussed above, group I and group II are considered to be a single inventive concept. Thus, the groups III to V are related to a single inventive concept.

Indeed, at the very least, group I and groups III-V should be considered as a single inventive concept.

The Official Action, however, believes that the protein of group I can be considered as distinct from the processes of groups III-V, if

- the processes using the protein of group I can be practiced with another protein, and/or
- the protein can be used with another process.

Groups III to V relate to the process for purifying protein of group I, the screening compound modulating activity of the protein of group I, and the screening compound useful for the treatment of pathologies linked to the protein of group I. These processes specifically relate to GFAT-tagged protein.

Indeed, any method allowing the purification of GFAT containing or not a tag, such as the purification method using

anti-GFAT antibody directed against GFAT, would not only permit the purification of GFAT-tagged protein, but both GFAT and GFAT-tagged proteins.

Thus, the methods for purifying GFAT-tagged proteins disclosed in the invention are the only methods that can be used to specifically purify this protein.

The same argument should be considered for the method of groups IV and V, since these methods concern the specific use of GFAT-tagged protein.

Therefore, for the above-mentioned reasons, the claimed invention of groups I to V is directed to a single general inventive concept.

The Law

The present application is a National Stage of International Application of PCT/FR2004/001800. Thus, the Official Action's reliance on sections MPEP 806.04, 808.01, and 806.05(h) is improper.

Pursuant to 37 CFR 1.499, unity of the invention is considered for a National Stage Application, as described by 37 CFR 1.475. Determination of the lack of unity is possible only when the claims of different inventions lack a "special technical feature" relative to one another.

The Examiner's attention is respectfully directed to PCT Rule 13.2 in Part 1b of the Annex B of the administrative instructions under the PCT, which specifies that "special

technical features" are those features that define a contribution which each of the inventions, considered as a whole, makes over the prior art. Thus, PCT Rule 13.2 is art-based and requires the citation of a publication showing the "special technical feature".

Therefore, as the Official Action fails to provide such a citation, no determination of lack of unity can properly be made.

Moreover, it is respectfully submitted that in applying this same legal standard with similar claims, the International Searching Authority did not determine the unity of invention as lacking. Thus, the Patent Office has the benefit of the search report, but fails to explain why a different legal conclusion was reached.

In view of the forgoing remarks, applicants respectfully submit that the restriction requirement set forth in the outstanding Official Action is improper and should be withdrawn.

Favorable action on the merits of all pending claims in their full scope is therefore respectfully requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON

Robert A. Madsen, Reg. No. 58,543
745 South 23rd Street
Arlington, VA 22202
Telephone (703) 521-2297
Telefax (703) 685-0573
(703) 979-4709

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